

Appl. No. 10/797,420  
Amdt. dated 15 January 2009  
Reply to office action of 15 October 2008

### **Arguments:**

Regarding the claim rejections under 37 CFR 1.75(c) and 35 USC 112, I have amended Claim 6 as mentioned above.

Regarding your rejections under 35 USC 102 against Claim 1 in view of the Arnedo patent (US6,655,262) and the Birkert patent (US5,044,263), you mentioned that the Applicant has not disclosed that such a design choice (a design choice of a driving gear bar being connected to a lifting rack) solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well. I submit that the design choice of a gear structure as in the Claims of the present application is indeed more advantageously than the toasters as disclosed by Arnedo and Birkert. Both Arnedo and Birkert disclose a toaster with comprising electromagnet and a spring for controlling the position of the rack, and after a period of use, it is very easy for the spring to get deformed or tired, and thereby affecting the performance and durability of the toaster. In contrast, the use of mechanical gear structure in controlling the rack in the present invention avoids the use of any spring component in the toaster, and thereby preventing the aforesaid problem. Therefore, I submit that the design choice of the present invention as in Claim 1 would not have been obvious design choices.

I respectfully hope that you could allow the application for grant under the revised set of claims.

Respectively submitted.

**By Applicant:**

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